

LEGAL UPDATE FROM HOG E FENTON: IMPORTANT CHANGES IN WAGE LAW

- In early 2013, minimum wage will increase in the **City of San Jose** to **\$10.00 per hour**. After 58% of voters passed ballot Measure D on Election Day, San Jose became the fifth city in the country, and the second in California (after San Francisco), to adopt a minimum wage higher than the state minimum. California's minimum wage will remain \$8.00 per hour in 2013. San Jose's wage increase likely will take effect in February or March 2013 — 90 days after election results become official. The minimum wage increase will apply to all employers who have employees performing work in San Jose.
- On January 1, 2013, the minimum wage requirement for a “**computer software**” employee to be deemed exempt from California's overtime laws will increase to **\$83,132.93 per year** (currently \$81,026.25) or **\$39.90 per hour** (currently \$38.89). As with all exemptions under California law, computer software professionals must satisfy both a duties test as well as a compensation test in order to be deemed exempt from overtime law. Employers should consult with legal counsel to determine if an employee qualifies for this exemption based on his or her duties, particularly because there is a similar but separate exemption available for certain computer professionals which has a lower compensation threshold and a broader exemption from wage and hour laws (e.g., it applies to meal and rest periods as well as overtime). The ramifications of misclassifying an employee can be severe, so it is important to understand the requirements for any exemption you might be considering..

In mid-January 2013, Hoge Fenton will present its **Annual Employment Law Update** seminars where we will discuss the recent wage changes above (and a similar increase for hourly physicians), along with recent court opinions and legislation that will affect how California employers conduct business in the new year and beyond. These programs are popular and space is limited, so watch for the invitation and register early. If you know of someone who would like to attend, please drop us an email and we'll extend an invitation.

Of course, if we can assist you in advance of the new year (e.g., written agreements are required for commissioned employees by January 1st), please feel free to contact us.

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For advice regarding this topic or any other matter involving employment law, please contact Sarju A. Naran or another member of our team.

For more information on Hoge Fenton's Employment law practice, please **click here**.

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